



## UNITED STATES PATENT AND TRADEMARK OFFICE


**UNITED STATES DEPARTMENT OF COMMERCE  
U.S. Patent and Trademark Office**

Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

28089 e 12/18/2008

WILMERHALE/NEW YORK  
399 PARK AVENUE  
NEW YORK, NY 10022

**Paper No.**

<b>Application No.:</b> 10/608,829 	<b>Date Mailed:</b> 12/18/2008
<b>First Named Inventor:</b> Herbst, Ewa,	<b>Examiner:</b> MORALES, JON ERIC C
<b>Attorney Docket No.:</b> 286932.124US2	<b>Art Unit:</b> 3766
<b>Confirmation No.:</b> 7587	<b>Filing Date:</b> 06/26/2003

**Please find attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

<b>NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)</b>	Application No. 10/608,829	Applicant(s) HERBST ET AL.	
		Art Unit 3700	Date Mailed:

The request for continued examination (RCE) under 37 CFR 1.114 filed on 01 December, 2008 is improper for reason(s) indicated below:

1. ☐ Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d). An RCE cannot be treated as a CPA.
2. ☐ Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b).
3. ☐ Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
4. ☐ The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
5. ☐ The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on \_\_\_\_\_. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
6. ☐ The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
7. ☒ The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

**Note:** A continued prosecution application (CPA) under 37 CFR 1.53(d) cannot be filed in a utility or plant application. A CPA filed in a utility or plant application that has a filing date **on or after June 8, 1995** will be treated as an RCE under 37 CFR 1.114. The request for a CPA in the instant application, however, has been treated as an improper RCE for the reason(s) indicated above.

***A copy of this Notice MUST be returned with the reply.***

Direct any questions concerning this notice to

/BURNELL L. ROSS/, Technology Center 3700

Telephone Number: (571)272-4389